

1 THE HONORABLE JOHN C. COUGHENOUR

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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 LEONARD ROLLINS, et al.,
9 Plaintiffs,
10 vs.
11 TRAYLOR BROS., INC., and
12 TRAYLOR/FRONTIER-KEMPER JV,
13 Defendants.

NO. 2:14-cv-1414 JCC

**DECLARATION OF BETH
TOUSCHNER IN SUPPORT OF
PLAINTIFFS' RESPONSE TO
DEFENDANTS' MOTION FOR
PROTECTIVE ORDER TO STAY
DISCOVERY**

**NOTE ON MOTION CALENDAR:
JUNE 24, 2016**

16 I, Beth Touschner, hereby declare under penalty of perjury under the laws of the State of
17 Washington that the following statements are true and correct, that I am over the age of 18 and
18 competent to testify to them, and that I do so from my own personal knowledge or upon
19 information gained through my representation of Plaintiffs in this matter:

20 1. I am an attorney licensed to practice in Washington and before this Court and one
21 of the attorneys who represent the Plaintiffs in this action.

22 2. Attached as **Exhibit 1** is a true and correct copy of an email thread containing
23 many of the emails related to scheduling the depositions of Defendants' managers in this case,
24 which began on December 8, 2015 and runs through April 8, 2016.

25 3. Attached as **Exhibit 2** is a true and correct copy of an email thread related to
**DECLARATION OF BETH TOUSCHNER IN
SUPPORT OF PLAINTIFFS' RESPONSE TO
DEFENDANTS' MOTION FOR
PROTECTIVE ORDER TO STAY
DISCOVERY - 2:14-cv-1414 JCC - 1**

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1 scheduling the depositions of Defendants' former managers Jeremy Saperia and John Scott
2 Stilson, and the request to reschedule the deposition of former Site Superintendent Bert Dore,
3 which begins in May 2016 and goes through today, June 22, 2016.

4 4. Defendants conducted depositions of the Named Plaintiffs and other potential
5 claimants before the class certification decision. In total, Defendants took the depositions of ten
6 former Named Plaintiffs or class members, and the deposition of Plaintiffs' expert witness, Dr.
7 Paul Torelli, during summer 2015.

8 5. Anticipating that the litigation would continue whether or not class certification
9 was obtained, and not wanting to delay the case any further since discovery was well underway,
10 I began seeking deposition dates for a few key witnesses employed by the Defendants.

11 6. E-mail communications, phone calls, and in-person conversations for
12 scheduling purposes began on December 8, 2015, continued through the filing of this Response.
13 See Exhibits 1 and 2.

14 7. I worked cooperatively with Defendants' counsel to schedule the depositions to
15 accommodate both Defendants' counsel and Defendants' managers' schedules. After originally
16 sending out deposition notices, we sent amended notices to accommodate Defendants'
17 scheduling conflicts. See Exhibit 1.

18 8. After many months of attempting to schedule Defendants' managers'
19 depositions, six depositions were noted and two depositions remained unscheduled with
20 potential dates in July and August proposed on numerous occasions.

21 9. Following the depositions of managers Tony Traylor and Michael Krulc,
22 Defendants filed the instant motion.

23 10. The depositions of Superintendents John Hook and Wayne Wolff are scheduled
24 during the pendency of the Motion.

25 11. Following the noting date for the Motion, depositions of Walker/Manager Al

1 Brown and Superintendent Bert Dore are scheduled, for June 28 and June 30, respectively.

2 12. On June 22, 2016, Defendants' counsel indicated the need to cancel and
3 reschedule the deposition of Superintendent Bert Dore. This was communicated to me in person
4 during the deposition of Superintendent Wayne Wolff, held today, and in an email sent while the
5 deposition was ongoing. As of this filing, no explanation as to the reason for cancellation was
6 given either in person during Mr. Wolff's deposition or in email. See Exhibit 2.

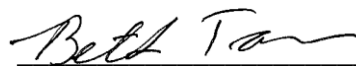
7 13. Two more former managers for Defendants are proving even harder to depose, in
8 part because both are not currently employed by Defendants and are out of state. I have been
9 trying to set up depositions of Equal Employment Officer Jeremy Saperia and Walker/Manager
10 John Scott Stilson unsuccessfully for over six months. See Exhibits 1 and 2.

11 14. The vast majority of the written documents produced in this case by the parties,
12 and by third party agencies, were produced in the first half of 2015, before the Motion for Class
13 Certification.

14 15. In addition to setting the depositions of Defendants' managers, we anticipate
15 noting the depositions of non-party witnesses in the near future.

16 16. Defendants' managers deposed to-date have indicated they are spending upwards
17 of seven to ten hours with counsel in preparation for their depositions.

18 SIGNED THIS 22nd day of June, 2016, at Seattle, Washington.

19 
20 Beth Touschner